

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Harcharan Singh, et al.

Case No. 3:05CV7113

Plaintiffs,
v.

Charlotte Pennell,

ORDER

Defendant.

Plaintiff Harcharan Singh, an Ohio resident, was injured in a car accident in North Carolina allegedly due to the negligence of defendant Charlotte Pennell. Pennell is a resident of North Carolina.

Pending is Pennell's motion to dismiss for lack of personal jurisdiction or, in the alternative, in the event I have jurisdiction, to transfer the case to the United States District Court for the Eastern District of North Carolina.

Singh does not contest the jurisdictional issue and instead requests this case be transferred. Pennell opposes such a transfer on the grounds that this court does not have jurisdiction and, therefore, may not transfer the case. This argument is correct under 28 U.S.C. § 1404(a), which permits a transfer for the convenience of parties and witnesses. *Pittock v. Otis Elevator Co.*, 8 F.3d 325, 329 (6th Cir. 1993).

A district court, however, may also transfer venue under 28 U.S.C. § 1406(a). Section 1406(a) permits transfer when the original venue, rather than merely inconvenient, is improper. Section 1406(a) does not require that the original court have personal jurisdiction over the defendant. *Goldlawr v. Heiman*, 369 U.S. 463 (1962). Thus, transfer to the United States District Court for the Eastern District of North Carolina is proper and shall be granted.

It is, therefore,

ORDERED THAT this case be transferred to the United States District Court for the Eastern District of North Carolina.

So ordered.

/s/James G. Carr

James G. Carr

Chief Judge